



2

Attorney Docket No. 041514-5102-01
Divisional of Prior Appln. No. 09/739,646
Page 1

PATENT
ATTORNEY DOCKET NO.: 041514-5102-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202



PRIOR APPLICATION: Examiner: N. Hindi
Group Art Unit: 2655

**DIVISIONAL PATENT APPLICATION TRANSMITTAL
UNDER 37 C.F.R. § 1.53(b)**

This is a request for filing a patent application under 37 C.F.R. § 1.53(b).

1. This application is a ☐ Continuation ☒ Divisional ☐ Continuation-in-Part patent application under 37 C.F.R. § 1.53(b), of pending prior application no. 09/739,646, filed on December 20, 2000.

Inventor(s): Takanori MAEDA, *et al.*

For: **VARIABLE OPTICAL ELEMENT, A PICKUP APPARATUS HAVING
THE VARIABLE OPTICAL ELEMENT, AND AN INFORMATION
RECORDING AND REPRODUCING APPARATUS HAVING THE
PICKUP APPARATUS**

2. The papers enclosed are as follows:

<u>44</u>	Page(s) of specification including
<u>0</u>	Title Page
<u>5</u>	Page(s) of claims
<u>1</u>	Page of abstract
<u>12</u>	Sheet(s) of drawings containing <u>23</u> Figures

3. Amendments

For continuation and divisional applications:

- ☒ [X] Cancel in this application original claims 9-16 in the enclosed copy of prior application before calculating the filing fee.
- ☐ [] A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

4. Oath or Declaration

For continuation or divisional applications:

- ☐ [] A newly executed (original or copy) oath or declaration is enclosed.
- ☒ [X] A copy of an oath or declaration from a prior application is enclosed under 37 C.F.R. § 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ [] A signed statement deleting inventor(s) named in the prior application is enclosed.

5. Relate Back - 35 U.S.C. § 120

- ☒ [X] Amend the specification by inserting before the first line the sentence:
"This is a divisional application of pending prior application no. 09/739,646, filed on December 20, 2000, which is hereby incorporated by reference.

6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT international applications under 35 U.S.C. § 365(a) designating at least one country other than the U.S.

☒ Priority of the following foreign application is claimed:

<u>Country</u>	<u>Application No.</u>	<u>Filed</u>
Japan	11-375170	December 28, 1999

Certified copies: ☐ is/are attached.
☐ will follow.
☒ were filed in prior U.S. Application No. 09/739,646 on March 14, 2001.

7. Assignment

For continuation or divisional applications:

☒ The prior application is assigned of record to Pioneer Corporation recorded March 14, 2001 at Reel/Frame 011588/0461.

☐ An assignment of the invention to _____ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

For continuation-in-part applications:

☐ An assignment of the invention to _____ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.



8. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$750.00 Design \$330.00
Total Claims (37 C.F.R. § 1.16(c))	16- 20 =	0	\$ 18.00 each =	+ \$0.00
Independent Claims (37 C.F.R. § 1.16(b))	3 - 3 =	0	\$ 84.00 each =	+ \$0.00
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$280.00	+ \$0.00
SUB-TOTAL =				\$750.00
Reduction by ½ for filing by a small entity				- \$
TOTAL FILING FEE =				\$750.00

9. Fee Payment

☐ NO FEE IS BEING PAID AT THIS TIME.

This application is being filed under the provisions of 37 C.F.R. § 1.53(f).
Applicant(s) await notification from the Patent and Trademark Office of the time
set for filing the Declaration and paying the filing fees.

☐ A check(s) in the amount of _____ to cover _____ is enclosed.

☒ The Commissioner is hereby authorized to charge \$750.00 for the filing fee to
Deposit Account No. 50-0310.

10. Small Entity Status is not claimed.

☐ a statement claiming small entity status is enclosed, or

☐ a small entity statement was filed in the prior nonprovisional application and is
still proper and desired.

11. ☒ The power of attorney in the prior application is to at least one of the registered
practitioners of Morgan, Lewis & Bockius LLP included in the Customer Number
provided below to prosecute this application and to transact all business in the
Patent and Trademark Office connected therewith, and all correspondence shall
be addressed to that Customer Number.

Please address all correspondence to Morgan, Lewis & Bockius LLP at:

Customer Number: 009629

12. ☐ Recognize as associate attorney _____
(name, address, and registration no.)
13. ☒ **PETITION FOR EXTENSION OF TIME.** If any extension of time is necessary for the filing of this application, including any extension in the prior application, application No. 09/739,646, filed on December 20, 2000, for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.
14. ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).
15. Additional papers enclosed:
- ☒ Information Disclosure Statement
 - ☒ Form PTO-1449, no references included
 - ☐ Preliminary Amendment

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Date: July 23, 2003

By: Donald Z. Monin, Jr.
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